

AN ORDINANCE

NO. 4108

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 105 Thereof, Entitled Noise And Exterior Lighting, By Deleting Existing Noise Regulations In Article I And Article II In Their Entirety, And Creating A New Set of Noise Standards.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 105 thereof, entitled Noise and Exterior Lighting, shall be amended by deleting the existing noise standards in Articles I and II in their entirety and revising Articles I and II to provide as set forth hereinbelow

Section 2. The Code of the Township of Lower Merion, Chapter 105 thereof, entitled Noise and Exterior Lighting, shall be amended by the addition of a newly revised Article I, entitled Definitions, to provide as follows:

ARTICLE I DEFINITIONS

§ 105-1. Definitions.

All terminology used in this chapter shall be in conformance with the applicable publications of the most current edition of the American National Standards Institute (ANSI) or its successor body. The following words and terms, as used herein, shall have the following meanings:

A-WEIGHTED SOUND PRESSURE LEVEL (SPL) -- The logarithmic sum of the decibel levels of the full frequency range between 20 Hz to 20,000 Hz weighted to correlate to the loudness of sounds as perceived by the human ear using the A-weighted network.

BACKGROUND SOUND LEVEL – The measured sound level in the area, exclusive of spontaneous, extraneous sounds, and the sound contribution of the specific source in question.

DAYTIME HOURS -- The hours between 8:00 a.m. and 8:00 p.m.

DECIBEL (dBA) -- A unit for measuring the sound-pressure level, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals or 0.0002 microbar.

DIRECTOR -- The Director of the Building and Planning Department of the Township of Lower Merion.

EQUIVALENT CONTINUOUS SOUND PRESSURE LEVEL (LEQ) -- The constant sound level which contains the same amount of sound energy over a given time period as the fluctuating sound. It is considered to be the average sound level within each measurement

period. For the purposes of this ordinance, the LEQ shall be measured on the A-weighted scale and the time interval shall be 10 minutes.

MEASUREMENT INSTRUMENT -- A Type I or Type II sound level meter as specified by the most current ANSI standard using the A-weighting network as specified in the most current edition of the ANSI standard or its successor.

NIGHTTIME HOURS -- The hours between 8:00 p.m. and 8:00 a.m.

NON-RESIDENTIAL DISTRICT(S) -- Land within any zoning district other than a Residential District as provided in Chapter 155 of the Township Code.

PERSON -- Any individual, firm, corporation, association or partnership.

PROPERTY LINE -- The boundary between adjoining lots, dwelling units, and condominium units owned, rented or leased by different persons, and also, for any two (2) or more buildings on the same lot, the line drawn midway between any two (2) said buildings.

RESIDENTIAL DISTRICT(S) -- Land within a R AA; R A; R 1; R 2; R 3; R 4; R 5; R 6; R 6A; or R 7 Residence District as provided in Chapter 155 of the Township Code.

Section 3. The Code of the Township of Lower Merion, Chapter 105 thereof, entitled Noise and Exterior Lighting, shall be amended by the addition of a newly revised Article II, entitled Noise, to provide as follows:

ARTICLE II NOISE

§ 105-2. Excessive noise prohibited.

It shall be unlawful for any person to make or produce excessive noise, thereby causing annoyance, inconvenience or detriment to the public or to any other person or persons. Noise shall be considered excessive if the sound is subject to this Chapter and the sound exceeds the limits hereinafter set forth.

§ 105-3. Maximum permissible sound pressure levels.

During daytime or nighttime hours, the maximum permissible sound pressure levels and average levels shall not exceed those set forth in the following chart:

Maximum A-Weighted Sound Pressure Levels (SPL) 8:00 am – 8:00 pm Daytime/8:00 pm – 8:00 am Nighttime		
Zoning District of Receiving Property	Maximum SPL (dBA)	LEQ Average SPL (dBA)
Residential (R)	57/52	52/45
Non-residential (C)	67/62	62/55

If the background sound level measured at the receiving property line at the time of a noise complaint are within 5 dBA of the limits in this chart, or above such limits, then the levels in this chart shall not apply and the following standards shall apply:

- A. The Maximum SPL and the LEQ Average SPL levels shall be increased by 5 dBA over the background sound level up to a maximum of 75 dBA.
- B. The background sound level shall be measured at the same location as the measurement for the sound contribution of the specific source in question and at a time immediately preceding that measurement.

§ 105-4 Noise measurement locations.

Sound measurements shall be made on the receiving property within ten (10) feet from the property line nearest the noise source, at least five (5) feet from any structure that reflects sound, and at least three (3) feet above the ground. Where the source of the noise occurs within a multi-unit building, or where buildings have a common party wall, the measurement shall be taken in a habitable space in the complainant's dwelling unit closest to the noise source.

§ 105-5. Measurement Instrument.

All sound measurements shall be taken with a measurement instrument as defined in §105-1. The manufacturer's published indication of compliance with such specifications shall be *prima facie* evidence of such compliance.

§ 105-6. Exemptions.

- A. The following activities are exempt from the provisions of this Chapter, subject to compliance with any restrictions listed below:
 - (1) Traffic noises, noises from the lawful operation of motor or utility vehicles, noises created by governmental units, and noises created or necessitated by emergency and civil defense activities.

(2) Noise created by refuse collection services, street sweepers, deliveries, and other similar activities associated with a permitted land use shall be exempt during the times as provided below:

(a) Residential Districts. Only during the hours of 7:00 a.m. to 6:00 p.m. Monday to Friday and during the hours of 8:00 a.m. to 6:00 p.m. Saturday and Sunday;

(b) Non-Residential Districts. Only during the hours of 6:00 a.m. to 8:00 p.m. Monday to Friday and during the hours of 8:00 a.m. to 6:00 p.m. Saturday and Sunday.

(c) Upon application, the Director of Building & Planning may grant a one-time exception to the aforesaid activity exemptions set forth in this §105-6 A (2) if reasonably necessary to conduct the activity in question for a specifically limited duration, and as appropriate, subject to reasonable conditions to protect the public welfare. The decision of the Director of Building & Planning on such application shall be appealable in accordance with the procedures set forth in Chapter 5 of the Township Code.

(3) Noise associated with permitted outdoor dining activities located in Non-Residential Districts, during the hours of 8:00 a.m. to 10:00 p.m. Sunday to Thursday and 8:00 a.m. to 11:00 p.m. Friday and Saturday.

(4) Noises created by construction work and the repair and maintenance of any building, structure, or property, including landscaping, shall be exempt during the times as provided below:

(a) During the hours of 8:00 a.m. to 6:00 p.m. Monday to Friday and during the hours of 9:00 a.m. to 6:00 p.m., Saturday and Sunday;

(i) Monday through Friday between the hours of 6:00 p.m. and 8:00 p.m., a maximum of one (1) piece of landscaping equipment exceeding the decibel limits in §105-3 may operate. If there is more than one (1) piece of landscaping equipment operating during these hours and the decibel limit exceeds the decibel limits established in §105-3, the use of this equipment is in violation of this exception.

(b) Upon application, the Director of Building & Planning may extend the aforesaid activity exemptions set forth in this §105-6. A (4) if reasonably necessary to conduct the construction work in question for specifically limited durations, and as appropriate, subject to reasonable conditions to protect the public welfare. The decision of the Director of Building & Planning on such application shall be appealable in accordance with the procedures set forth in Chapter 5 of the Township Code.

Language authorizing minor repair work in (4) (c) until 8:00 pm was deleted

(5) Concerts, block parties, graduations, wedding receptions, ceremonies, sporting or recreational activities, carnivals, festivals, or other performances or similar activities (public or private) shall be exempt provided that:

| (a) Such activities, except for sport shooting on ranges existing on July 1, 2017, do not produce sound at the property line of ten (10) dBA or more in excess of the sound levels set forth in §105-3; and

(b) Such exemption shall not apply from 10:00 p.m. to 8:00 a.m. the following day Sunday through Thursday, or from 11:00 p.m. to 9:00 a.m. the following day on Friday and Saturday and Federal holidays.

(6) Warning devices: sounds made by warning devices operating continuously for three (3) minutes or less, except that in the event of an actual emergency, the time limitation shall not apply.

(7) Noise created by emergency generators during a power outage. Noise created by emergency generator testing shall be exempt, but only during the hours between 10:00 a.m. and 4:00 p.m., provided however, that if generator testing from 10:00 a.m. to 4:00 p.m. is prohibited by another governmental entity, then testing occurring after 4:00 p.m., but no later than 8:00 p.m., shall be exempt. **(The BOC approved weekend testing so the Monday to Friday language has been deleted)**

(8) Noise created by the unamplified human voice, provided however, that such noise shall be subject to the applicable provisions of Chapter 111 (Peace & Good Order). **(The previous subsection 8 regulating snow removal has been deleted.)**

B. Any provision of the Lower Merion Code that sets forth noise standards or authorizes activities that conflict with the noise level regulations set forth in this Chapter shall take precedence over such regulations. Likewise, the noise level regulations set forth in this Chapter shall not supplant noise levels otherwise authorized or required by decisions of the Zoning Hearing Board or any court.

§ 105-7. Violations and penalties.

Any person who shall fail to comply with any of the provisions of this chapter shall be liable, on conviction thereof, to a fine or penalty of not less than \$25 nor more than \$1,000 for each offense. Whenever such person shall have been notified by the Director or by the service of a summons in a prosecution or in any other way that he is committing a violation of this Chapter, each day in which he shall continue such violation after notification shall constitute a separate offense, punishable by a like fine or penalty. Such fines or penalties shall be collected before any District Justice as like fines or penalties are now by law collected.

§ 105-8. Chapter cumulative.

This chapter shall be cumulative and shall be in addition to other township ordinances and regulations and, in particular, to any ordinance pertaining to disorderly conduct. This Chapter and the foregoing penalties shall not be construed to limit or deny the right of the township or any person to such equitable or legal remedies as may otherwise be available.

Section 4. Nothing in this Ordinance or in Chapter 105 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause of causes of action existing under the said Chapter 105 prior to the adoption of this amendment.

Section 5. The provisions of this ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Section 6. This Ordinance shall take affect and be in force from and after its approval as required by law.

Enacted by the Board of Commissioners of the Township of Lower Merion this day of
, 2017.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary